

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL NO. 1456
LITIGATION) Civil Action No. 01-12257-PBS

)
) Judge Patti B. Saris
THIS DOCUMENT RELATES TO:)
)
The City of New York v. Abbott Labs., et al.)
(S.D.N.Y. No. 04-CV-06054))
County of Suffolk v. Abbott Labs., et al.)
(E.D.N.Y. No. CV-03-229))
County of Westchester v. Abbott Labs., et al.)
(S.D.N.Y. No. 03-CV-6178))
County of Rockland v. Abbott Labs., et al.)
(S.D.N.Y. No. 03-CV-7055))
County of Dutchess v. Abbott Labs., et al.)
(S.D.N.Y. No. 05-CV-06458))
County of Putnam v. Abbott Labs., et al.)
(S.D.N.Y. No. 05-CV-04740))
County of Washington v. Abbott Labs., et al.)
(N.D.N.Y. No. 05-CV-00408))
County of Rensselaer v. Abbott Labs., et al.)
(N.D.N.Y. No. 05-CV-00422))
County of Albany v. Abbott Labs., et al.)
(N.D.N.Y. No. 05-CV-00425))
County of Warren v. Abbott Labs., et al.)
(N.D.N.Y. No. 05-CV-00468))
County of Greene v. Abbott Labs., et al.)
(N.D.N.Y. No. 05-CV-00474))

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**DEFENDANTS' MOTION FOR LEAVE TO FILE A RESPONSE TO THE BRIEF OF
THE ATTORNEY GENERAL OF THE STATE OF NEW YORK AS AMICUS CURIAE
AND TO PLAINTIFFS' POST-ORAL ARGUMENT SUBMISSIONS**

County of Saratoga v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00478))
County of Columbia v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00867))
Essex County v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00878))
County of Chenango v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00354))
County of Broome v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00456))
County of Onondaga v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00088))
County of Tompkins v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00397))
County of Cayuga v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00423))
County of Madison v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00714))
County of Cortland v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00881))
County of Herkimer v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00415))
County of Oneida v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00489))
County of Fulton v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00519))
County of St. Lawrence v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00479))
County of Jefferson v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00715))
County of Lewis v. Abbott Labs, et al.)
 (N.D.N.Y. No. 05-CV-00839))
County of Chautauqua v. Abbott Labs, et al.)
 (W.D.N.Y. No. 05-CV-06204))
County of Allegany v. Abbott Labs, et al.)
 (W.D.N.Y. No. 05-CV-06231))
County of Cattaraugus v. Abbott Labs, et al.)
 (W.D.N.Y. No. 05-CV-06242))
County of Genesee v. Abbott Labs, et al.)
 (W.D.N.Y. No. 05-CV-06206))
County of Wayne v. Abbott Labs, et al.)
 (W.D.N.Y. No. 05-CV-06138))
County of Monroe v. Abbott Labs, et al.)
 (W.D.N.Y. No. 05-CV-06148))
County of Yates v. Abbott Labs, et al.)
 (W.D.N.Y. No. 05-CV-06172))

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County of Niagara v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06296))
County of Seneca v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06370))
County of Orleans v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06371))
County of Ontario v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06373))
County of Schuyler v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06387))
County of Steuben v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06223))
County of Chemung v. Abbott Labs, et al.)
(W.D.N.Y. No. 05-CV-06744))
AND)
County of Nassau v. Abbott Labs, et al.)
(E.D.N.Y. No. 04-CV-5126))
_____)

Defendants move the Court for leave to file a reply to the brief of the Attorney General of the State of New York as Amicus Curiae and to Plaintiffs' Post-Oral Argument Submissions. Defendants' proposed reply is prompted by the Court's receipt of three filings addressed to the merits of the causes of actions alleged: (1) Plaintiffs' Response to Issues Raised During June 16, 2006 Oral Argument, dated July 7, 2006; (2) Plaintiffs' Notice of Supplemental Authority dated September 14, 2006; and (3) the Brief of the Attorney General of the State of New York as Amicus Curiae dated September 15, 2006 (the "NY AG brief"). Defendants' proposed reply would be their combined response to those three filings.¹

Defendants believe that a response is warranted because the filings raise arguments and authorities that defendants did not have an opportunity to address at the oral argument. Defendants respectfully request leave to file a concise reply to address these new arguments and authorities.. A copy of the proposed reply is being submitted with this motion.

Dated: Boston, Massachusetts
September 27, 2006

Respectfully Submitted,

ON BEHALF OF ALL DEFENDANTS
SERVED IN ACCORDANCE WITH FRCP. 4
OR WHO HAVE WAIVED SERVICE

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¹ Each defendant has joined in this document only as to those cases in which the defendant is a party.

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